

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

The written comment deadline is October 25, 2006, unless otherwise listed.

Temp & Prop indicates the rule is both temporary and proposed.

**** Indicates that a public hearing has been scheduled.**

IDAPA 01 - BOARD OF ACCOUNTANCY

PO Box 83720, Boise, ID 83720-0002

01-0101-0601, Idaho Accountancy Rules. Updates incorporations by reference; changes name of accrediting body to the "Northwest Commission on Colleges and Universities"; changes "fee" to "fine" to clarify penalty for regulatory non-compliance.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

PO Box 790, Boise, ID 83701

02-0104-0601, Rules Governing the Idaho Preferred Promotion Program. Adds a section requiring Department approval of use of logo on packaging and printed materials; and changes the symbol from Idaho Preferred™ to Idaho Preferred® because the name and logo have completed the trademark process and are now registered marks.

****02-0602-0602, Rules Pertaining to the Idaho Commercial Feed Law.** (Temp & Prop) Updates the label requirements for pet foods to be consistent with the AAFCO uniform label requirements for pet foods; clarifies that viable noxious weed seed found in a feed is an adulterant.

02-0622-0601, Noxious Weed Rules. (Temp & Prop) Amends noxious weed list and creates sub-lists; designates articles capable of disseminating noxious weeds; provides for cleaning and disinfecting of articles capable of dissemination of noxious weed propagules; deletes reference to Special Management Zone; adds penalty section and buffer zone allowance for counties.

02-0631-0601, Noxious Weed Free Forage and Straw Certification Rules. Updates title of the National standard used for field inspection procedures; removes obsolete sections; adds definitions; addresses forage cube certification; upgrades distribution requirements; and corrects a reference to the Idaho Noxious Weed Law.

****02-0633-0601, Organic Food Products Rules.** Updates incorporation by reference section; changes registration and certification deadlines; increases registration fees; establishes a late registration fee; caps the organic gross sales fee graduated scale; requires outside certifying agencies and their Idaho clients to register with Department.

IDAPA 07 - DIVISION OF BUILDING SAFETY

1090 E. Watertower St., Meridian, ID 83642

07-0104-0601, Rules Governing Electrical Specialty Licensing. (Temp & Prop) Clarifies that only journeyman and apprentice electricians, employed by an electrical contractor, may install electrical wiring, equipment and apparatus in modular structures.

07.05.01, Rules of the Public Contractors License Board.

07-0501-0602, Increases the fee cap rate for public works contractor and construction manager licenses.

07-0501-0603, (Temp & Prop) Allows for a “guarantor” to pledge assets to small contractors to allow them to qualify for licensure when the assets of the contracting entity on its own are insufficient to qualify.

IDAPA 08 - STATE BOARD OF EDUCATION

PO Box 83720-0037, Boise, ID 83720-0037

08-0111-0601, *Out-of-State Institutions, In-State Non-Accredited Institutions, and Correspondence or Private Courses.* Repeal of chapter.

08-0111-0602, *Registration of Postsecondary Educational Institutions and Proprietary Schools.* (Temp & Prop) Clarifies that postsecondary institutions must register to ensure they are legitimate degree granting institutions and that proprietary schools are legitimate and establishes criteria for evaluating these institutions.

08.02.03, *Rules Governing Thoroughness*

08-0203-0604 - Includes the subgroup of LEP students in the definition of “at-risk youth” so they will have access to additional acceleration services to assist them not only in their English language acquisition but also will increase their ability to participate fully in the classroom.

****08-0203-0605** - Increases total number of credits required for high school graduation to 46 credits starting with the 2013 graduating class; increases math requirements to 6 credits and science requirements to 6 credits; requires students to take the ACT, SAT, or COMPASS test in the 11th grade, and to complete a Senior Project; and requires all school districts to provide at least one Advanced Opportunity for all students.

08-0203-0606 – (Temp & Prop) Revises the English language development standards; establishes the Limited English Proficiency Program Accountability Plan; and establishes ISAT and IELA cut scores.

IDAPA 11 - IDAHO STATE POLICE

PO Box 700, Meridian, ID 83680-0700

11-0501-0601, *Rules Governing Alcohol Beverage Control.* Provides licensees with a specific time period following loss or move of a licensed premise to secure and occupy a new premise and display the alcohol beverage license; adds definitions to clarify references to Idaho Code; and updates licensing practices.

11-1001-0601, *Rules Governing ILETS – Idaho Law Enforcement Teletypewriter System.* Changes chapter name; changes fees charged for access and usage of the Idaho Public Safety and Security Information System to all agencies, local, state, and federal, by 25% beginning on 10/1/07.

11-1101-0601, *Rules of the Idaho Peace Officers Standards and Training Council.* Defines “Correction Officer” and “Adult Probation and Parole Officer” as law enforcement professions as it pertains to the two-year agreement so people working in those capacities get credit for time served; allows students attending the vocational law enforcement programs to be eligible for waivers for “uncharacterized” or “general under honorable conditions” discharges from military service and give the POST Executive Director the authority to waive these; adds language to prevent decertified officers from obtaining future POST certification with the exception of Correction Officers; adds the Law Enforcement Code of Ethics; clarifies that peace officer, county detention officer, and communications specialist experience must be with a duly authorized law enforcement agency to count toward peace officer and detention officer certification; clarifies the qualifications for the Supervisor certificate; and establishes the POST Hearing Board.

11-1102-0601, *Rules of the Idaho Peace Officers Standards and Training Council for Juvenile Detention Officers.* Adds a county clerk to the Juvenile Training Council.

11-1103-0601, *Rules of the Idaho Peace Officers Standards and Training Council for Juvenile Probation Officers.* Adds a county clerk to the Juvenile Training Council.

11-1104-0601, *Rules of the Idaho Peace Officers Standards and Training Council for Correction Officers and Adult Probation and Parole Officers.* Extends the voluntary certification option for correction officers from 2008 to 2010 and for adult probation and parole officers from 2007 to 2009.

IDAPA 12 - DEPARTMENT OF FINANCE**PO Box 83720, Boise, ID 83720-0031**

12-0110-0601, Rules Pursuant to the Idaho Residential Mortgage Practices Act. Amends agency access information and updates the references to the documents incorporated by reference.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION**PO Box 25, Boise, Idaho 83707**

13-0104-0601, Rules Governing Licensing. (Temp & Prop) Amends eligibility requirements for a Disabled Person License; adopts eligibility requirements and permit conditions to implement the new “children with special needs big game permit/tag”; clarifies outfitter allocation process and the Handicapped Archery Permit rule to address equipment concerns of handicapped archers; deletes the Southeast Idaho Nonresident Deer License/Tag rule because it is now a controlled hunt.

13-0105-0601, Fishing Contests. (Temp & Prop) Allows additional fishing contests on planted trout; clarifies certain definitions, and makes clerical corrections and updates.

13-0108-0601, Rules Governing the Taking of Big Game Animals in the State of Idaho. (Temp & Prop) Simplifies the understanding of weapon type opportunities; addresses concerns of handicapped archers; implements new outfitter allocation; addresses elk depredations in eastern Idaho; adds an additional unit (Unit 69) to the Motor Vehicle Restriction Rule; lengthens the controlled hunt application period for deer, elk, antelope, and fall black bear; and clarifies and corrects hunt descriptions.

13-0109-0601, Rules Governing the Taking of Game Birds in the State of Idaho. (Temp & Prop) Requires the wearing of hunter orange when hunting on Wildlife Management Areas where pheasants are stocked.

13-0111-0601, Rules Governing Fish. (Temp & Prop) Changes address biological issues and angler desires.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**PO Box 83720, Boise, ID 83720-0036**

16-0208-0601, Vital Statistics Rules. Changes align the Department's disinterment rules with the amended statute and make other minor clarifications.

16.03.04, Rules Governing the Food Stamp Program

16-0304-0601 - Excludes one vehicle per adult family member in the Food Stamp household when determining eligibility.

16-0304-0602 - (Temp & Prop) Simplifies income calculations for self-employment and child support income; simplifies work requirements and sanctions for non-compliance; excludes additional military combat pay; amends definitions; aligns time lines with federal requirements.

16.03.05, Rules Governing Eligibility for Aid to the Aged, Blind and Disabled

****16-0305-0603** - (Temp & Prop) Sets the criteria for determining how a working disabled individual's income and resources will be calculated to establish Medicaid eligibility.

****16-0305-0604** - (Temp & Prop) Establishes a method for the distribution of the annual cost of living adjustment increase to the basic allowance and the allowance for rent, utilities, and food.

16-0305-0606 - Requires Medicare-eligible individuals to enroll in Medicare as a condition of eligibility for Idaho Medicaid.

16.03.08, Rules Governing Temporary Assistance for Families in Idaho.

16-0308-0601 - Excludes one vehicle per adult family member in a TAFI household when determining eligibility.

16-0308-0602 - (Temp & Prop) Changes will help meet and assist work participants in improving work skills and training needed to be successful in obtaining jobs.

****16-0318-0602, Medicaid Cost-Sharing.** (Temp & Prop) Implements cost-sharing provisions of Section 56-209n, Idaho Code, to help individuals with disabilities be eligible for Medicaid while working.

16-0601-0601, Rules Governing Family and Children's Services. Makes guardianship assistance consistent with stature; utilizes "best practices" for implementing child protection rules and adoption rules for out-of-state adoptions, home studies, support, supervision, and limits on state-funded adoption and guardianship assistance; modifies "Professional Foster Care" requirements; and delete references to discontinued community programs.

16-0602-0601, Rules Governing Child Care Licensing. Requires that additional safety devices and barriers be in place to protect young children living in licensed foster homes and children's residential care facilities with swimming pools, hot tubs, ponds or other bodies of water on the property; removes requirement for automatic fingerprinting and criminal history background checks of young adults in foster homes or residential care facilities when they stay in the same home or facility after turning 18, unless he moves away from the home and returns; updates adoption rules to address the Multiethnic Placement Act that prohibits the delay or denying placement of any child on the basis of race, color or national origin.

****16-0606-0601, Developmental Disabilities Family Support and In-Home Assistance.** New chapter provides funding for services and equipment to help individuals with developmental disabilities continue to live with their families, prevent institutionalization, improve access to community supports, use existing resources efficiently, and obtain enhanced care; adds a new less costly grievance procedure option as an alternative to the more formal appeals process.

16.06.12, Rules Governing the Idaho Child Care Program.

16-0612-0601 - Chapter repeal.

16-0612-0602 - Chapter rewrite increases current income limits to 150% of the Federal Poverty Guidelines of 2005; updates co-payment rates; adds requirement for post-secondary students to work in order to be eligible for child care benefits and limits the time they can receive child care benefits to 2 years.

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

PO Box 83720, Boise, ID 83720-0041

17-0206-0601, Employers Reports. Reconciles conflicting time periods by changing the second time period to 15 days from 10 days; extends the reporting time period to 120 days to allow sureties sufficient time to capture data they are required to submit on the Summary of Payments; allows auditing of total and permanent benefit payments within a time frame that allows useful feedback to be given and corrections made.

****17-0208-0602, Miscellaneous Provisions.** Clarifies that the fee schedule does not apply to hospitals and substitutes an alternative method to compute fees for hospitals; reduces the number of conversion factors used for physician fees; and it allows health care providers to be fully paid after going through a dispute resolution process.

IDAPA 18 - DEPARTMENT OF INSURANCE

PO Box 83720, Boise, ID 83720-0043

18-0127-0601, Self-Funded Employee Health Care Plans. (Temp & Prop) Implements House Bill 822 by outlining requirements for employer sponsored self-funded health plans including information that must be submitted to the Department to register the plan and requirements for maintaining and reporting reserves and surplus.

18-0128-0601, Governmental Self-Funded Employee Health Care Plans. (Temp & Prop) New chapter implements House Bill 825 for registering, funding and operating self-funded health plans offered by public entities and created through joint powers agreements.

IDAPA 19 - IDAHO BOARD OF DENTISTRY

PO Box 83720, Boise, ID 83720-0021

19.01.01, Rules of the Idaho State Board of Dentistry.

19-0101-0602 - Changes physical office address.

19-0101-0603 - Proposes to create and issue an extended access dental hygiene restorative license endorsement and outlines requirements for such licensure.

19-0101-0604 - Current Rule 40 of the Administrative Rules of the Board of Dentistry contains a number of subsections that identify behavior that constitutes unprofessional conduct on the part of a dentist or dental hygienist. A violation of any provision in Rule 40 may provide a basis for taking disciplinary action against a dental or dental

hygiene license. The Board of Dentistry proposes to amend existing Rule 40.18 to clarify the fact that unprofessional conduct not only includes the violation of a law governing dentistry but also includes the violation of any law pertaining to or affecting a person's fitness to practice dentistry. For example, many criminal laws do not govern the practice of dentistry, but a conviction for criminal conduct may pertain to or affect a person's fitness to practice dentistry.

**IDAPA 22 - IDAHO BOARD OF MEDICINE
PO Box 83720, Boise, ID 83720-0058**

22-0104-0601, Rules of the Board of Medicine for Registration of Supervising and Directing Physicians. Adds definitions; provides for the duties and responsibilities of supervising physicians of medical personnel providing cosmetic treatments, including at those locations that are remote or non-medical; describes training requirements and outlines scope of cosmetic treatments.

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
1109 Main St., Ste 220, Boise, ID 83702**

24-0301-0601, Rules of the State Board of Chiropractic Physicians. Updates the version of reference guidelines for peer review standards.

****24-0401-0601, Rules of the Idaho Board of Cosmetology.** (Temp & Prop) Corrects contact information; redefines hospital grade; defines "patron"; includes examiner qualifications with board qualifications; adds haircutter category to fee schedule; changes exam fees to allow for administration by third party; sets requirements for exam and theory exam criteria for haircutters; adds haircutter credit toward cosmetology license; changes reexamination eligibility; sets minimum hours for clinical services on patrons; and establishes rules for schools teaching haircutting.

24-0501-0601, Rules of the Board of Drinking Water and Wastewater Professionals. Requires applicants to take and pass the exam within one year in order to keep applications current.

24-0701-0601, Rules of the Idaho State Board of Landscape Architects. Increases original license fee and annual renewal fee to \$150.

24-0901-0601, Rules of the Board of Examiners of Nursing Home Administrators. (Temp & Prop) Allows for a masters degree as part of experience/education requirements for licensure by endorsement.

24-1001-0601, Rules of the State Board of Optometry. Revises exam requirements and length of work experience required for endorsement; revises continuing education to include observation and the use of excess hours; updates the code of ethics; and revises contents of prescriptions.

24-1201-0601, Rules of the Idaho State Board of Psychologist Examiners. Updates contact information; increases fee for renewal of licenses and service extender applications.

24-1301-0601, Rules of the Physical Therapy Licensure Board. (Temp & Prop). New chapter provides definitions; defines supervision; establishes application process; sets fees, disciplinary penalties, and standards for continuing education; and provides a code of ethics.

24-1401-0601, Rules of the State Board of Social Work Examiners. Clarifies credentials to be filed; allows for termination of inactive files after 24 months of no contact; and deletes Clinical Practice Exemption and Independent Practice rules.

24-1501-0601, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. Updates incorporation by reference pertaining to ethics; clarifies and revises counselor and therapist supervisor requirements; clarifies qualifications for clinical professional counselors; and adds national credential registry for endorsement qualifications.

24-1701-0601, Rules of the Idaho State Board of Acupuncture. Updates contact information for the Board; and reduces the original license fee and the annual renewal fee to \$200 per license.

24-1801-0601, Rules of the Real Estate Appraiser Board. Updates contact information; clarifies education required to include courses approved by AQB; changes education effective dates to 1/1/08 for most licenses; allows board meeting attendance to count toward continuing education credits.

24-1901-0601, Rules of the Board of Examiners of Residential Care Facility Administrators. Adds scope of practice; and increases license application and provisional/temporary permits fees.

IDAPA 27 -- BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067

27-0101-0603, Rules of the Idaho State Board of Pharmacy. Requires licensed pharmacies to submit the same theft loss information to the Board that they now submit to the DEA.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83720-0074

31-1101-0601, Safety and Accident Reporting Rules for Utilities Regulated by the PUC. Adopts the 2007 Edition of the National Electrical Safety Code (NESC) that is incorporated by reference.

IDAPA 33 - IDAHO REAL ESTATE COMMISSION
PO Box 83720, Boise, ID 83720

33.01.01, Rules of the Idaho Real Estate Commission.

33-0101-0602 - (Temp & Prop) Establishes a mechanism by which a designated broker can access and review the electronically-kept continuing education records of the sales associates currently licensed with that broker.

33-0101-0603 - (Temp & Prop) Expands and amends list of topics approved for continuing education credits.

IDAPA 35 - IDAHO STATE TAX COMMISSION
PO Box 36, Boise, ID 83722-0410

35.01.01, Idaho Income Tax Administrative Rules

35-0101-0601, Numerous changes conform to statutory changes; adds table for income tax brackets and rates for calendar year 2006; clarifies the addback for state and local income and sales taxes when limitations are imposed in computing the federal itemized deduction amount; changes holding period for real property to 12 months; clarifies time period that an interest in income of a pass-through entity must be met; modifies the calculation of the proration percentage; gives the Tax Commission authority to require an alternative method for determining Idaho source income of a partnership when the apportionment formula does not fairly represent the extent of the business activity in Idaho; clarifies that a corporation that is protected by federal Public Law 86-272 is exempt from the corporate income tax, including the minimum tax; addresses the modifications to the other state's adjusted gross income and tax required when computing the credit for taxes paid to another state; allows information returns to be submitted through electronic filing; clarifies that taxpayers whose business activities in Idaho are protected under Public Law 86-272 are not required to pay the permanent building fund tax; new rule addresses the Idaho Small Employer Investment Tax Credit.

****35-0101-0602,** Addresses dividends from real estate investment trusts and regulated investment companies; clarifies that insurance companies are included in the combined report, but their tax is deducted from the tax liability computed for the unitary group if paying the Idaho premium tax.

35.01.02, Sales Tax Administrative Rules

35-0102-0601, Adds required sections to rule; removes tax on sales of intrastate charter flights; sheriff's offices are assigned a seller's permit number and must file returns quarterly; clarifies that "transporting freight or passengers for hire" means providing transportation services to the public and not just to related parties; state that discount memberships are intangible and their sale is not taxable; clarifies that no tax is due on complimentary items given away when a purchase of tangible personal property is required as long as the sale of the item purchased is taxable; clarifies that an Idaho resident who forms an LLC in another state for the primary purpose of purchasing one or more motor vehicles does not qualify for the nonresident exemption. clarifies that credit will be given against any Idaho use tax due for local sales taxes paid in Alaska if the goods are then brought to Idaho.

35-0102-0602, adds a provision that 50% of the sales price is presumed to be subject to tax when services and

software are not separately stated.

35-0106-0601, *Hotel/Motel Room Tax Administrative Rules*. Removes references to the 4% Greater Boise Auditorium District tax rate.

35-0109-0601, *Idaho Kitchen and Table Wine Tax Administrative Rules*. Adds definition of “wine direct shipper”; wine direct shippers are required by statute to remit wine tax and collect use tax on their sales of wine to Idaho residents; clarifies that wine direct shippers are required to post a surety bond or some other acceptable form of security in the same manner as in-state wineries and wine distributors; wine direct shippers are required to obtain a wine tax reporting number in the same manner as in-state wineries and wine distributors; states what information is required on a wine tax return.

35-0110-0601, *Idaho Cigarette and Tobacco Products Tax Administrative Rules*. Clarifies that shippers who are not licensed tobacco products distributors must pay the tobacco tax; requires distributors to obtain a copy of the owner’s tribal identification card or a certificate of tribal ownership when selling to an enrolled tribal member or an Indian tribe.

35-0201-0601, *Idaho Tax Commission Administration and Enforcement Rules*. Establishes a formula for calculating the yearly interest rate applied to deficiencies of tax and refunds; corrects the calculation of penalties when a taxpayer qualifies for an extended due date, but files the return before such date; deletes the requirement that an offer of compromise include a remittance in the amount of the offer; changes references.

IDAPA 39 -- IDAHO TRANSPORTATION DEPARTMENT PO Box 7129, Boise ID 83707-1129

39-0222-0601, *Rules Governing Mileage Use Fee Administration*. Recognizes a new method of fee payments, based on registration and permit fees; addresses quarterly reporting requirements, installment payments, refunds, delinquent or non-payment of fees, suspension or revocation of a customer account and methods of payment.

39-0345-0601, *Rules Governing Sale of No Longer Useful or Usable Real Property*. (Temp & Prop) Allows local government entities to acquire surplus ITD property, for other than transportation purposes, at a negotiated price, up to the appraised value, expressly for public purposes, with sales proceeds to the State Highway Account.

39-0362-0601, *Rules Governing Logo Signs*. Updates incorporation by reference documents.

39-0364-0601, *Rules Governing Tourist Oriented Directional Signs*. Updates incorporation by reference documents.

39-0407-0601, *Rules Governing Aerial Search And Rescue of Lost Aircraft and Airmen*. Places the coordination of search and rescue under the direction and supervision of the Chief of the Bureau of Homeland Security while requiring aerial search and rescue operations be coordinated by the Idaho Transportation Department, Division of Aeronautics.

IDAPA 41 - PUBLIC HEALTH DISTRICTS 2195 Ironwood Ct., Coeur d’Alene, ID 83814

41-0101-0601, *Rules of Panhandle Health District 1*. Expands Institutional Controls Program to include OU-3 (Coeur d’Alene River Basin) because remediation is taking place in OU-3 of the Bunker Hill Superfund site cleanup; clarifies sewage disposal systems standards and procedures; clarifies existing rules regarding critical materials on the Rathdrum Prairie Aquifer; corrects outdated references to the Department of Health and Welfare; adds required sections.

IDAPA 46 - BOARD OF VETERINARY MEDICAL EXAMINERS 2270 Old Penitentiary Rd., Boise, ID 83707

46-0101-0601, *Rules of the State of Idaho Board of Veterinary Medicine*. Changes reflect current practices and clarify processes and procedures; revises continuing education requirements; updates practice standards; clarifies the code of conduct; establishes a timeframe for the filing of complaints.

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION**PO Box 83720, Boise, ID 83720-0037**

****47-0102-0601, *Rules and Minimum Standards Governing Extended Employment Services*.** (Temp & Prop)
Establishes IDVR as the agency with the authority to administer Extended Employment Services programs statewide.

IDAPA 48 - GRAPE GROWERS AND WINE PRODUCERS COMMISSION**117 North 9th Ave., Suite 2, Caldwell ID 83605**

48-0101-0601, *Rules of the Idaho Grape Growers and Wine Producers Commission*. (Temp & Prop) New chapter imposes a tax and late fee penalties for failure to timely pay tax on grape growers and producers.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**1410 N. Hilton, Boise, ID 83706-1255**

****58-0101-0603, *Rules for the Control of Air Pollution in Idaho*.** Proposes to opt out of, or not participate in, the federal cap and trade program for H_g emissions from EGUs and proposes to prohibit the construction of any EGU with H_g emissions.

Please refer to the Idaho Administrative Bulletin, **October 4, 2006, Volume 06-10** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at www.idaho.gov/adm/adminrules/ or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.